

# State of South Dakota

SEVENTY-EIGHTH SESSION  
LEGISLATIVE ASSEMBLY, 2003

464I0446

## SENATE BILL NO. 223

Introduced by: Senator Reedy and Representatives Nesselhuf, Lange, and Schafer

1 FOR AN ACT ENTITLED, An Act to ensure that covered persons of managed care plans  
2 receive certain health care services.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 58-17C-1 be amended by adding thereto NEW SUBDIVISIONS to read  
5 as follows:

6 "Point of service option," any option for the covered person to choose to receive service  
7 from a nonparticipating health care professional or provider;

8 "Primary care practitioner," any health care professional under contract with the managed  
9 care plan, who has been designated by the plan to coordinate, supervise, or provide ongoing care  
10 to the covered person;

11 "Specialist," any health care professional who falls outside the definition of a primary care  
12 practitioner.

13 Section 2. That § 58-17C-8 be amended to read as follows:

14 58-17C-8. ~~A~~ Each health carrier providing a managed care plan shall maintain a network that  
15 is sufficient in numbers and types of providers to assure that all services to covered persons will  
16 be accessible without unreasonable delay. Each managed care plan shall permit covered persons



1 to choose their own primary care practitioner from a list of health care professionals within the  
2 plan. In the case of emergency services, covered persons shall have access twenty-four hours per  
3 day, seven days per week. Sufficiency shall be determined in accordance with the requirements  
4 of this section; and may be established by reference to any reasonable criteria used by the carrier,  
5 including: provider-covered person ratios by specialty; primary care provider-covered person  
6 ratios; geographic accessibility; waiting times for appointments with participating providers;  
7 hours of operation; and the volume of technological and specialty services available to serve the  
8 needs of covered persons requiring technologically advanced or specialty care.

9 Section 3. That chapter 58-17C be amended by adding thereto a NEW SECTION to read  
10 as follows:

11 Each managed care plan shall develop a system to permit covered persons to use a medical  
12 specialist primary care practitioner, if the covered person's medical condition warrants it. This  
13 may include covered persons suffering from chronic diseases as well as those with other special  
14 needs.

15 Section 4. That chapter 58-17C be amended by adding thereto a NEW SECTION to read  
16 as follows:

17 Each managed care plan shall offer a point-of-service option. The point-of-service option  
18 may require that the covered person in the plan pay a reasonable portion of the costs not to  
19 exceed twenty percent of such out-of-plan care.

20 Section 5. That chapter 58-17C be amended by adding thereto a NEW SECTION to read  
21 as follows:

22 Each managed care entity shall exercise ordinary care when making health care treatment  
23 decisions and is liable for damages to a covered person for harm proximately caused by its failure  
24 to exercise ordinary care.